



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

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Brooklyn, New York 11201*

November 1, 2024

By ECF

Honorable Peggy Kuo
United States Magistrate Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: *Dominguez v. United States*, Case No. 23-cv-7908 (DLI)(PK)

Dear Judge Kuo:

This Office represents defendant United States of America in this lawsuit brought under the Federal Tort Claims Act. The United States respectfully requests an extension of the expert discovery schedule and an adjournment of the settlement conference, currently scheduled for November 22, 2024, until after completion of expert discovery.

By way of background, this action arises from an accident in April 2021, involving Plaintiff Lorena Dominguez, who was operating an electric scooter, and the driver of a government vehicle. Dkt. No. 1. Plaintiff seeks \$6 million in damages. *Id.* ¶ 25. Under the original discovery plan entered by this Court, the parties were to complete fact discovery by August 5, 2024, affirmative expert reports were to be exchanged by October 4, 2024 and rebuttal reports by December 10, 2024, and expert depositions were to be completed by January 10, 2024. On August 2, 2024, the parties jointly requested, and this Court granted, an extension of time to complete fact discovery to September 20, 2024. Dkt. No. 13 and Order dated August 5, 2024. The parties did not seek an extension of time to complete expert discovery from the Court, but internally agreed to push the date by which the parties would exchange affirmative reports to November 14, 2024 and to leave all other deadlines in place.

The United States respectfully seeks a 60-day extension of time for it to retain additional medical experts. As explained in a letter filed by Plaintiff, Plaintiff underwent a hip surgery in mid-May 2024. Dkt. No. 14. To give her time to heal, the independent medical examination with Dr. Jonathan Garay was not scheduled until October 9, 2024, less than five weeks before affirmative expert reports were due. Following this examination several weeks ago, Dr. Garay recommended further evaluation of Plaintiff, who claims to have sustained injuries to her head, neck, back, right shoulder, right arm, right knee, and hip, by two to three specialists in order to properly assess Plaintiff's alleged injuries and residuals. For this reason, Defendant respectfully asks the Court to adopt the following expert discovery schedule: exchange of affirmative expert

reports by January 13, 2025,¹ exchange of rebuttal reports by February 21, 2025, and completion of expert depositions by March 14, 2025.

Moreover, Defendant respectfully requests an adjournment of the November 22 settlement conference. On September 13, 2024, Your Honor entered an order granting a joint motion by the parties to adjourn the scheduled settlement conference until November 22, 2024, and ordered Plaintiff to make her settlement demand by October 11, 2024 and for Defendant to respond to the demand by November 1, 2024. Minute Order dated September 13, 2024. On October 14, 2024, Plaintiff, through counsel, made a settlement demand of \$6 million, the full amount of judgment sought in the Complaint. On October 28, 2024, the undersigned advised Plaintiff that Defendant could not reasonably respond to a “settlement demand” that is for the full amount of judgment. Plaintiff has refused to change her demand.

Given Plaintiff’s refusal to move down from \$6 million, the United States does not believe settlement negotiations will be productive at this juncture without further development of expert discovery. For this reason, the United States seeks an adjournment of the November 22 settlement conference to a date after the completion of expert discovery.

Plaintiff does not consent to the United States’ requests.

This is the first request for extension of time to complete expert discovery by either party. As noted, the parties previously requested one extension to extend fact discovery and an adjournment of a settlement conference.

Defendant thanks the Court for its time and attention to this matter.

Respectfully submitted,

BREON PEACE
United States Attorney

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¹ Plaintiff has not made her expert disclosures yet.